

REMARKS

Reconsideration of the objection and the rejections set forth in the Office Action dated June 29, 2009, is respectfully requested. The Examiner rejected claims 177-201. Applicants have amended claims 177, 185-187, 190, 191, 193, 196-198, and 200, canceled claims 199-201 without prejudice, and added new claim 202. Accordingly, claims 177-198 and 202 are now pending in the application. No new matter has been added by these amendments as can be confirmed by the Examiner.

A. The Written Specification Has Been Amended To Improve Readability.

Minor amendments have been made throughout the written specification. These amendments are principally of a grammatical nature and are believed to even further improve the readability of the written specification. No new matter has been added by these amendments. Accordingly, entry of these minor amendments is respectfully requested.

B. The Cited Prior Art References Do Not Disclose Or Suggest Receiving A Video Source File Including At Least One Index Frame Each Having A Plurality Of Red-Green-Blue (RGB) Data Values, Extracting The First Source Elements From The Selected Index Frame In Accordance With A Key Via Non-Compression Specific Element Extraction, And Calculating An Average Value Of The RGB Data Values For Each Of The First Source Elements Of The Selected Index Frame To Form A File Fingerprint As Recited In The Pending Claims.

In the Office Action, the Examiner rejected claims 177-187 (presumably claims 177-198) as being allegedly rendered obvious under 35 U.S.C. § 103(a) by Rabin et al., United States Patent No. 6,697,948 (hereinafter "Rabin") in view of Stratigos et al., United States Patent No. 5,537,486 (hereinafter "Stratigos") and rejected claims 199-201 as being allegedly rendered obvious by Rabin in view of Stratigos further in view of Agrawal et al., United States Patent No. 5,647,058 (hereinafter "Agrawal"). Applicants respectfully submit, however that, by failing to disclose each and every element of independent claims 177 and 187, as amended, and new independent claim 202, Rabin in view of Stratigos further in view of Agrawal does not render obvious independent claims 177, 187, and 202. Therefore, it is submitted that independent claims 177, 187, and 202, as well as claims 178-186 and 188-198 that depend therefrom, are in condition for allowance.

As acknowledged by the Examiner, Rabin in view of Stratigos fails to teach fingerprinting the video data by calculating an average value of the RGB data values for each of the first source elements as set forth in independent claims 177, 187, and 202. Accordingly, Applicants respectfully submit that Rabin in view of Stratigos does not bear on the patentability of independent claims 177, 187, and 202.

The Examiner, recognizing the deficiencies of Rabin in view of Stratigos, attempts to supplement the teaching of Rabin in view of Stratigos by relying upon Agrawal. According to the Examiner, Agrawal, at col. 6:28-38, "discloses a method of indexing a multi-media database wherein video data is fingerprinted using the average of RGB color features." The Examiner therefore relies solely upon the teachings of Agrawal in rejecting "the limitations of [sic, wherein] said extracting the first source elements comprises extracting the first source elements from the source file via non-compression specific extraction, wherein said extracting the first source elements includes calculating an average value of the data values for each of the first source elements, [sic, and] wherein said calculating the average value of the data values comprises calculating an average value of the RGB data values for each of the first source elements." Applicants respectfully disagree with the assertions of the Examiner.

Agrawal, in fact, discloses a high-dimensional indexing method for taking a set of database objects with N-dimensional data vectors and building an index that treats the objects like k-dimensional points. See Agrawal at Abstract; Fig. 3; col. 1:8-11; col. 3:65 – col. 4:10. The high-dimensional indexing method begins by defining and applying a set of feature extraction functions that admit a similarity measure (or metric) for each stored object in a database. See id. at Fig. 3; col. 4:10-13; col. 5:47-50. The method then transforms the measure in a manner such that the metric is preserved and such that information of a feature vector is concentrated in only a few coefficients. See id. at Fig. 3; col. 4:13-24; col. 5:50-55. Each feature vector then is truncated. See id. at Fig. 3; col. 4:24-27; col. 5:55-59. The entries within the feature vectors that contribute little to the total information of the transformed vectors thereby are ignored. See id. Next, an index based on the truncated feature vectors is built using a data

structure for multi-dimensional indexing. See id. at Fig. 3; col. 4:27-30; col. 5:59-61. Thereby, when a search is conducted for objects that are similar to a subject object, a preliminary similarity search is conducted on the truncated transformed data using the high-dimensional index to retrieve potentially-qualifying objects. See id. at Fig. 3; col. 4:31-34; col. 5:61-66. A secondary range search then is performed on the potentially-qualifying objects in order to eliminate any false positives. See id. at Fig. 3; col. 4:34-37; col. 5:66-67.

The Examiner bases the above assertions solely upon the following example from Agrawal:

For instance, in order to describe the features of the objects in terms of the average color distance, suppose the colors used to describe a feature are given as a triplet (R,G,B) color vector. Assume there are N-pixels in the object and R(p), G(p), and B(p) are the red, green, and blue components respectively with the p-th pixel having intensities typically in the range of 0-255. Under such description, the average color vector for a scene with 50% blue sky and 50% green grass would be, as an RGB color vector, approximately (0,127,127).

Agrawal at col. 6:28-36.

Independent claims 177, 187, and 202 each recite receiving a video source file that includes at least one index frame each having a plurality of red-green-blue (RGB) data values, extracting first source elements from a selected index frame in accordance with a key via non-compression specific element extraction, and calculating an average value of the RGB data values for each of the first source elements of the selected index frame to form a file fingerprint. In contrast to the assertions of the Examiner, Agrawal does not teach or even suggest use of at least one index frame each having a plurality of red-green-blue (RGB) data values, extraction of the first source elements from a selected index frame via non-compression specific element extraction, or calculating an average value of the RGB data values for each of the first source elements of the selected index frame. It therefore is submitted that the Examiner's reliance on Agrawal is misplaced and that Rabin in view of Stratigos further in view of Agrawal does not bear on the patentability of independent claims 177, 187, and 202.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. In view of all factual information, the Examiner must make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Impermissible hindsight, however, must be avoided, and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. See M.P.E.P. § 2142.

Here, the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C. § 103(a) because, as set forth above, all of the elements of the pending claims are not found in the cited prior art references. None of the above references, neither individually nor in combination, disclose or suggest receiving a video source file that includes at least one index frame each having a plurality of red-green-blue (RGB) data values, extracting first source elements from a selected index frame in accordance with a key via non-compression specific element extraction, and calculating an average value of the RGB data values for each of the first source elements of the selected index frame to form a file fingerprint as set forth in the pending claims. Accordingly, at least one recited element of independent claims 177, 187, and 202 is totally missing from the cited prior art references. For at least the reasons set forth above, Applicants respectfully submit that independent claims 177, 187, and 202 are not rendered obvious by Rabin in view of Stratigos further in view of Agrawal and that claims 177-198 and 202 are in condition for allowance.

C. Dependent Claims 185, 186, 190, 191, 193, and 196-198 Have Been Amended To Conform With The Language Of The Claims, As Amended, From Which They Depend.

Applicants likewise have amended the language of dependent claims 185, 186, 190, 191, 193, and 196-198 for purposes of consistency with the amended language of the independent claims from which they respectively depend. Accordingly, these dependent claims have not been amended for reasons of patentability.

D. Conclusion.

For at least the reasons set forth above, it is submitted that claims 177-198 and 202 are in condition for allowance. A Notice of Allowance is earnestly solicited. The Examiner is encouraged to contact the undersigned at (408) 341-2345 if there is any way to expedite the prosecution of the present application.

Respectfully submitted,

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